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## BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AUG 15 2008

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
JOHNSON UTILITIES, L.L.C., DBA JOHNSON  
UTILITIES COMPANY FOR AN INCREASE  
IN ITS WATER AND WASTEWATER RATES  
FOR CUSTOMERS WITHIN PINAL COUNTY,  
ARIZONA.

DOCKET NO. WS-02987A-08-0180

**RATE CASE**  
**PROCEDURAL ORDER****BY THE COMMISSION:**

On March 31, 2008, Johnson Utilities, LLC, dba Johnson Utilities Company ("Johnson" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for increases in its water and wastewater utility rates.

On April 29, 2008, the Utilities Division Staff of the Commission ("Staff") filed a Letter of Deficiency stating that Johnson's March 31, 2008, rate application did not meet the sufficiency requirements as outlined in Arizona Administrative Code ("A.A.C.") R14-2-103 and listing the items Staff required to deem the application sufficient for processing.

On May 13, 2008, existing Counsel for the Company filed a Motion Requesting Permission to Withdraw as Counsel, and new Counsel for the Company filed a Notice of Substitution of Counsel.

On May 14, 2008, the Company filed revised schedules and other documents to address the items identified in Staff's April 29, 2008, Letter of Deficiency.

On May 16, 2008, a Procedural Order was issued granting the May 13, 2008, Motion Requesting Permission to Withdraw as Counsel.

From May 28, 2008, through August 13, 2008, sixteen individual public comments and three petitions with a total of 98 signatures in opposition to the rate increase request were filed.

On June 11, 2008, a letter from Commissioner Mundell to the Commission was docketed.

1 On June 11, 2008, Swing First Golf, LLC ("Swing First") filed a Motion to Intervene.

2 On June 13, 2008, Staff filed a Second Letter of Deficiency.

3 By Procedural Order issued June 23, 2008, Swing First's Motion to Intervene was granted.

4 On June 23, 2008, a letter from Commissioner Mundell to the Company was docketed.

5 On June 24, 2008, a letter from Commissioner Mundell to the Commission was docketed.

6 On July 3, 2008, Johnson filed responses to the data requests contained in Staff's Second  
7 Letter of Deficiency.

8 On August 1, 2008, Staff filed a Letter of Sufficiency informing the Company that the  
9 application had met the Commission's sufficiency requirements and classifying the Company as a  
10 Class A utility.

11 Accordingly, pursuant to A.A.C. R14-3-101, the Commission now issues this procedural  
12 order to govern the preparation and conduct of this proceeding.

13 IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter is hereby  
14 scheduled to commence on **April 23, 2009, at 10:00 a.m.** or as soon thereafter as is practicable, at  
15 the Commission's offices, 1200 West Washington Street, Conference Room 100, Phoenix, Arizona  
16 85007.

17 IT IS FURTHER ORDERED that a pre-hearing conference shall be held on **April 20, 2009,**  
18 **at 2:30 p.m.,** at the Commission's Phoenix offices, for the purpose of scheduling witnesses and the  
19 conduct of the hearing.

20 IT IS FURTHER ORDERED that the **Staff Report and/or any testimony** and associated  
21 exhibits to be presented at hearing on behalf of Staff shall be reduced to writing and filed on or before  
22 **February 4, 2009.**

23 IT IS FURTHER ORDERED that **testimony and associated exhibits to be presented at**  
24 **hearing on behalf of intervenors,** shall be reduced to writing and filed on or before **February 4, 2009.**

25 IT IS FURTHER ORDERED that **rebuttal testimony and associated exhibits to be**  
26 **presented at hearing by Johnson** shall be reduced to writing and filed on or before **March 6, 2009.**

1 IT IS FURTHER ORDERED that **surrebuttal testimony and associated exhibits to be**  
2 **presented by Staff and intervenors** shall be reduced to writing and filed on or before **March 31,**  
3 **2009.**

4 IT IS FURTHER ORDERED that **rejoinder testimony and associated exhibits to be**  
5 **presented at the hearing on behalf of Johnson** shall be reduced to writing and filed on or before  
6 **April 16, 2009.**

7 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**  
8 **filing is due, unless otherwise indicated above.**

9 IT IS FURTHER ORDERED that any **objections to testimony or exhibits that have been**  
10 **prefiled as of April 16, 2009, shall be made before or at the April 20, 2009, pre-hearing**  
11 **conference.**

12 IT IS FURTHER ORDERED that **each party shall individually prepare, and bring to the**  
13 **pre-hearing conference, copies of an issues matrix setting forth all disputed issues in the case.**  
14 **Each party's matrix shall indicate the position of each party on each disputed issue and shall**  
15 **indicate whether the disputed issue remains in dispute or has been resolved, in prefiled**  
16 **testimony or otherwise.**

17 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which  
18 lists the issues discussed.

19 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
20 prefiled testimony, with the exception of rejoinder testimony, shall be reduced to writing and filed no  
21 later than five calendar days before the witness is scheduled to testify.

22 IT IS FURTHER ORDERED that the parties shall prepare a brief written summary of the  
23 prefiled testimony of each of their witnesses and shall file each summary at least two working days  
24 before the witness is scheduled to testify.

25 IT IS FURTHER ORDERED that copies of summaries shall be served upon the  
26 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties  
27 of record.  
28

1 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,  
2 except that **all motions to intervene must be filed on or before January 9, 2009.**

3 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
4 regulations of the Commission, except that until March 6, 2009, any objection to discovery requests  
5 shall be made within 7 calendar days of receipt<sup>1</sup> and responses to discovery requests shall be made  
6 within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made within  
7 5 calendar days and responses shall be made within 7 calendar days. The response time may be  
8 extended by mutual agreement of the parties involved if the request requires an extensive compilation  
9 effort.

10 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a  
11 receiving party requests service to be made electronically, and the sending party has the technical  
12 capability to provide service electronically, service to that party shall be made electronically.

13 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
14 discovery, any party seeking resolution of a discovery dispute may telephonically contact the  
15 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery  
16 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and  
17 that the party making such a request shall forthwith contact all other parties to advise them of the  
18 hearing date and shall at the hearing provide a statement confirming that the other parties were  
19 contacted.<sup>2</sup>

20 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are  
21 not ruled upon by the Commission within 20 calendar days of the filing date of the motion shall be  
22 deemed denied.

23 IT IS FURTHER ORDERED that any responses to motions shall be filed within five calendar  
24 days of the filing date of the motion.

25  
26  
27 <sup>1</sup> The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. MST  
will be considered as received the next business day.

28 <sup>2</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before  
seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that any replies shall be filed within five calendar days of the  
2 filing date of the response.

3 IT IS FURTHER ORDERED that the Company shall provide public notice of the hearing in  
4 this matter, in the following form and style with the **heading in no less than 18-point bold type** and  
5 the **body in no less than 10-point regular type**:

6 **PUBLIC NOTICE OF HEARING ON THE APPLICATION OF JOHNSON UTILITIES,**  
7 **LLC, DBA JOHNSON UTILITIES COMPANY FOR AN INCREASE IN ITS WATER AND**  
8 **WASTEWATER RATES FOR CUSTOMERS WITHIN PINAL COUNTY, ARIZONA.**  
**(DOCKET NO. WS-02987A-08-0180)**

9 **Summary**

10 On March 31, 2008, Johnson Utilities, LLC, dba Johnson Utilities Company  
11 ("Johnson" or "Company") filed a rate application with the Arizona Corporation  
12 Commission ("Commission").

13 **Water Division**

14 Johnson's application requests an annual revenue decrease of approximately  
15 \$2,233,480, or 16.96 percent, from current revenues for water services. For average  
16 consumption (6,931 gallons per month) residential water customers, Johnson's request  
17 would decrease monthly rates by approximately 19.99 percent. **The actual change in  
18 rates for individual customers would vary depending upon the type and quantity  
19 of service provided. You may contact the Company and request a calculation of  
20 the impact of its proposals on your account.**

21 **Wastewater Division**

22 Johnson's application requests an annual revenue increase of approximately  
23 \$2,095,498, or 20.76 percent, over current revenues for wastewater services. For  
24 residential wastewater customers, Johnson's request would increase monthly rates by  
25 approximately 20.86 percent. **The actual change in rates for individual customers  
26 would vary depending upon the type and quantity of service provided. You may  
27 contact the Company and request a calculation of the impact of its proposals on  
28 your account.**

The Commission's Utilities Division Staff ("Staff") is in the process of auditing and  
analyzing the application, and has not yet made any recommendations regarding  
Johnson's proposed rates. The Commission will determine the appropriate relief to be  
granted based on the evidence presented by the parties to the case. The Commission is  
not bound by the proposals made by Johnson, Staff, or any intervenors; therefore, the  
final rates approved by the Commission may be higher or lower than the rates  
requested by Johnson.

**How You Can View or Obtain a Copy of the Rate Proposal**

Copies of the application and proposed rates are available from Johnson [COMPANY  
INSERT HOW AND WHERE AVAILABLE] and at the Commission's Docket  
Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection  
during regular business hours and on the Internet via the Commission's website  
(www.azcc.gov) using the e-Docket function.

**Arizona Corporation Commission Public Hearing Information**

The Commission will hold a hearing on this matter beginning **April 23, 2009, at 10:00 a.m.** at the Commission's offices, Conference Room 100, 1200 West Washington Street, Phoenix, Arizona. Public comments will be taken on the first day of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. WS-02987A-08-0180 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a form to use and instructions on how to e-mail comments to the Commission, go to [http://www.azcc.gov/divisions/utilities/forms/public\\_comment.pdf](http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf). If you require assistance, you may contact the Consumer Services Section at 602-542-4251 or 1-800-222-7000.

**About Intervention**

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. If you wish to intervene, you must file an original and 13 copies of a written motion to intervene with the Commission no later than **January 9, 2009**, and send a copy of the motion to Johnson or its counsel and to all parties of record. Your motion to intervene must contain the following:

1. Your name, address, and telephone number, and the name, address, and telephone number of any party upon whom service of documents is to be made, if not yourself;
2. A short statement of your interest in the proceeding (e.g., a customer of Johnson, a shareholder of Johnson, etc.); and
3. A statement certifying that you have mailed a copy of the motion to intervene to Johnson or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before **January 9, 2009**. If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the application or from filing written comments in the record of the case.

**ADA/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator, Linda Hogan, E-mail [Lhogan@azcc.gov](mailto:Lhogan@azcc.gov), voice phone number 602/542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

1 IT IS FURTHER ORDERED that Johnson shall mail to each of its customers a copy of the  
2 above notice as a bill insert beginning with the first billing cycle in **November, 2008**, and shall cause  
3 a copy of such notice to be published at least once in a newspaper of general circulation in its service  
4 territory, with publication to be completed no later than **November 28, 2008**.

5 IT IS FURTHER ORDERED that Johnson shall file certification of mailing/publication as  
6 soon as practicable after the mailing/publication has been completed.

7 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication  
8 of same, notwithstanding the failure of an individual customer to read or receive the notice.

9 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
10 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
11 *pro hac vice*.

12 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
13 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
14 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
15 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
16 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
17 Administrative Law Judge or the Commission.

18 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
19 Communications) continues to apply to this proceeding and shall remain in effect until the  
20 Commission's Decision in this matter is final and non-appealable.

21 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
22 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

23 ...

24 ...

25 ...

26 ...

27 ...

28

1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
3 hearing.

4 DATED this 15<sup>th</sup> day of August, 2008.

5  
6   
7 TEENA WOLFE  
8 ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered  
10 this 15<sup>th</sup> day of August, 2008, to:

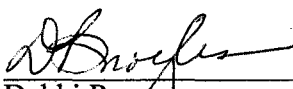
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26 By:   
27 Debbi Person  
28 Secretary to Teena Wolfe